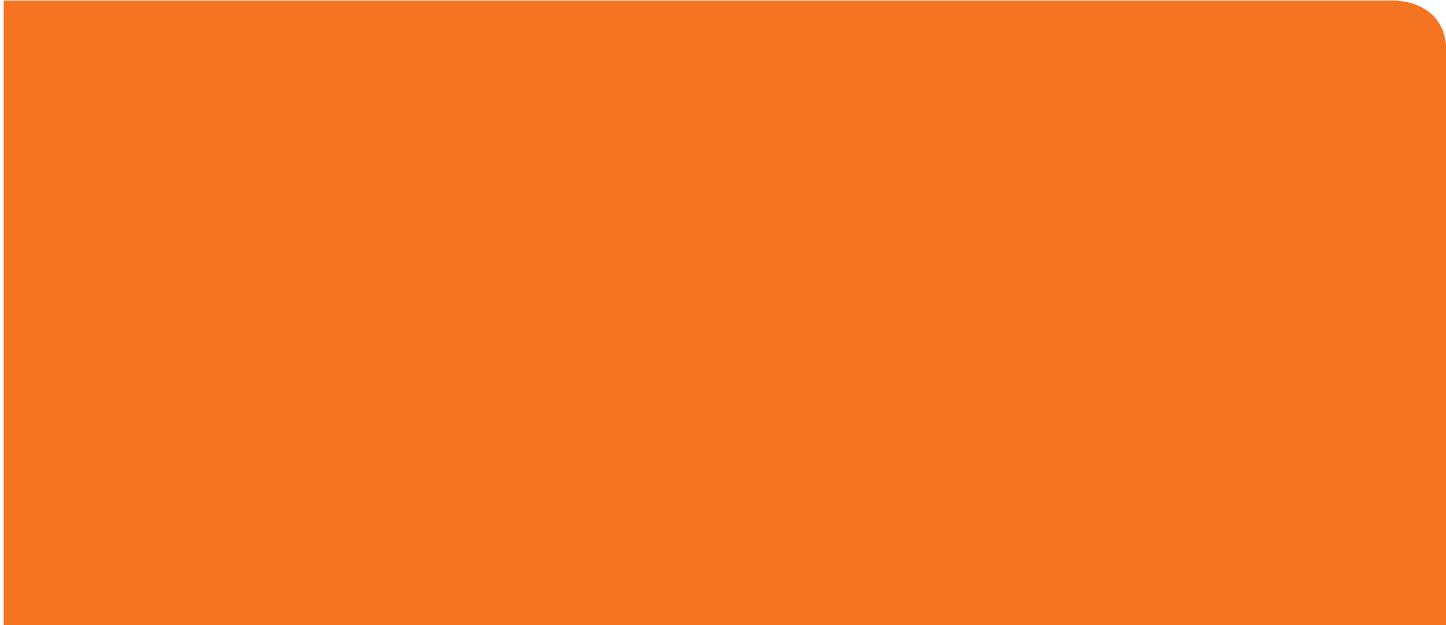


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Ensuring an Equitable Opportunity: Providing a High-Quality Education for Students with Disabilities



THE COUNCIL OF CHIEF STATE SCHOOL OFFICERS

The Council of Chief State School Officers (CCSSO) is a nonpartisan, nationwide, nonprofit organization of public officials who head departments of elementary and secondary education in the states, the District of Columbia, the Department of Defense Education Activity, Bureau of Indian Education, and five U.S. extra-state jurisdictions. CCSSO provides leadership, advocacy, and technical assistance on major educational issues. The Council seeks member consensus on major educational issues and expresses their views to civic and professional organizations, federal agencies, Congress, and the public.

Ensuring an Equitable Opportunity: Providing a High-Quality Education for Students with Disabilities

COUNCIL OF CHIEF STATE SCHOOL OFFICERS

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We are grateful to our partners at the Collaboration for Effective Educator Development, Accountability, and Reform (CEEDAR); the Council of Administrators of Special Education (CASE); the District Management Group (DMG); The Education Trust; the Leadership Conference on Civil and Human Rights; the National Center for Learning Disabilities (NCLD); the National Center for Intensive Intervention at the American Institutes for Research (NCII/AIR); the National Center for Systemic Improvement at WestEd (NCSI); Dr. David Bateman, Shippensburg University; Dr. Kate Foley; the Honorable Dr. Robert Pasternack; and the following state departments of education – Kansas, Kentucky, Mississippi, New Jersey, Pennsylvania, Tennessee, Utah, Washington, West Virginia, Wisconsin, Wyoming, for their help in developing this guide.

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Introduction

The *Education for All Handicapped Children Act* of 1975 marked an historic win for civil rights when the doors to public education were opened for all students. For the first time, children with disabilities had access to a public education and the hope of a productive and fulfilling future. Today, the *Individuals with Disabilities Education Act* of 2004 (IDEA), the most recent iteration of that law, aims to deliver on that promise; namely, that all students with disabilities have equitable access to a free appropriate public education (FAPE) in the least restrictive environment. Along with the reauthorization of IDEA came a shift for states to move to a results-based accountability system and an emphasis on improving academic outcomes for students with disabilities and away from a strict compliance focus.

The *Every Student Succeeds Act* of 2015 (ESSA), the recently reauthorized Elementary and Secondary Education Act of 1965, also aims to deliver on that promise; namely that all students, across all backgrounds and circumstances, are provided the opportunity to receive a high-quality education. While responding to the various federal laws has traditionally led to silos within state education agencies (SEA), under these two pieces of federal legislation the alignment between ESSA and IDEA is strengthened and provides an important opportunity to deliver on the promise of equitable and ambitious outcomes for students with disabilities.¹ However, effectively preparing students with disabilities for life after high school remains a challenge for states as evidenced by the significant educational achievement and opportunity gaps that persist between students with disabilities and their non-disabled peers. The increased alignment between the federal laws, bolstered further by an increased focus on improving the educational benefit for students with disabilities required by the unanimous Supreme Court ruling in the *Endrew F. v. Douglas County School Dist. RE-1*, presents an opportunity for state leaders to support school and district leaders in understanding a new landscape of delivering appropriate and effective educational services and supports for students with disabilities.

The two most significant Supreme Court decisions to date that have informed this new landscape and how SEAs and local school districts implement the requirements of IDEA are the *Board of Education of the Hendrick Hudson Central School District v. Rowley* of 1982 (*Rowley*), and the *Endrew F. v. Douglas County School District RE-1* of 2017 (*Endrew*). The *Rowley* decision has been frequently interpreted to establish a basic floor of educational services for students receiving special education, while the

¹ How ESSA and IDEA Can Support College and Career Readiness for Students with Disabilities. https://ccrscenter.org/sites/default/files/ESSA-IDEA_CollegeCareerReadiness.pdf

Endrew decision set a more substantive bar for achievement and accountability. While both landmark cases provide direction to educators, the *Endrew* decision compels educators at all levels to examine special education policies and practices to ensure students with disabilities have access to challenging instruction and are afforded the opportunity to make progress in light of their individual circumstances. These landmark decisions are rooted in providing equal opportunities to students with disabilities and ensure they receive the maximum educational benefits possible from specifically-designed instruction provided by effective teachers.

Endrew provides an opportunity to shift mentality and practice and change how we think about children and their potential.

– Leadership Conference on Civil & Human Rights

The Every Student Succeeds Act (ESSA) prioritizes the needs of all students, meaning that every student with a disability is, first and foremost, a general education student. There is opportunity for SEAs to communicate the standard reflected in the *Endrew* decision to district and school leaders to align practices that are geared toward equity. This includes ensuring that all educators are prepared to provide all students, including students with disabilities, with excellent differentiated instruction, services, and supports. State leaders have an opportunity to develop clear terminology and definitions for what constitutes a high-quality individualized education program (IEP) and strategies to ensure positive outcomes for students with disabilities mandated by IDEA and reinforced by the *Endrew* decision.

"Educational equity, as defined by CCSSO, means that every student has access to the resources and educational rigor they need, at the right moment in their education across race, gender, ethnicity, language, disability, sexual orientation, family background, and/or family income."

– Council of Chief State School Officers (CCSSO)

Under IDEA, it is the state's responsibility to ensure that all students with disabilities have access to FAPE and are educated to the maximum extent appropriate alongside their general education peers. Currently, more than 60 percent of students with disabilities spend at least 80 percent of their school day in general education classrooms.² However, many general education teachers are unprepared to accommodate the needs of students with disabilities in the general education classroom. It is an imperative that states ensure, through policy and practice, that all educators and school staff are effectively prepared to develop, interpret, and implement high-quality programs.

² How much time do students with disabilities spend in "regular" classrooms? Disabilities, Opportunities, Internetworking, and Technology. <https://www.washington.edu/doit/how-much-time-do-students-disabilities-spend-regular-classrooms>

High-quality Individualized Education Programs (IEPs) include goals that are results-driven, and which are configured to support meaningful progress—not the bare minimum.

– National Center for Systemic Improvement at WestEd

To deliver on that promise, students with disabilities are provided with an individualized education program (IEP). The IEP is developed to ensure that a child who has a disability identified under the law, requires special education, and is attending an elementary or secondary school receives specially-designed instruction and related services. An IEP is developed by a team of individuals generally consisting of a student's teachers and other school personnel with knowledge of the student, a school or district administrator, the parent or guardian, and if age appropriate, the student. IEPs are legal and binding and meet the student's learning needs, articulating the services required by the student to maximize their potential, meet agreed upon academic and behavioral goals, and thereby receive educational benefit.

States should set expectations for the goal of the IEP, which is to get students to the level of mastery of a general education student. The goal is to vary the supports but not the endpoint.

– The Education Trust

In a landscape where students with IEPs are increasingly included in general education classrooms, states must ensure that all educators, teachers, leaders, and school staff, are prepared to provide these students with high-quality instruction and appropriate individualized services and supports. What constitutes excellent instruction for a majority of students is not always effective for students with disabilities. However, when educators incorporate high-leverage and evidence-based practices, specialized instruction, and intensive interventions, students with disabilities can be successful and progress in the general education classroom.

While the SEA does not develop the IEP, it must ensure students are receiving an appropriate

"Data is an important tool to increase communication with parents and the advocacy community. It is advisable to provide these groups with trainings on use and understanding of data so that they will become more engaged partners in a child's education."

– The Honorable Dr. Robert Pasternack

individualized education aligned with the student's IEP. §1401(9)(D).

Although an IEP is a vehicle for providing a free appropriate public education to students with disabilities, it will only enable a student to

receive that education insofar as the people responsible for its execution are prepared to respond effectively to students' learning needs through effective instruction, the identification and provision of appropriate services and supports, the measurement and monitoring of student progress, and a clear expectation of family engagement throughout the process.

State chiefs and their leadership teams are uniquely positioned to contemplate the shifts outlined in the *Endrew* Supreme Court decision and provide support to districts and schools in meeting the standard set forth therein. To that end, the *Endrew* decision will be used as the backdrop for describing how state education agencies can improve outcomes and results for students with disabilities through policies that communicate a commitment to high standards and practices that are aligned to ensure equitable opportunities for all students with disabilities.

Background

The central pillar of IDEA³ is the obligation of public schools to provide each eligible student with a FAPE⁴ via an IEP⁵. Determination of FAPE, however, has varied significantly between states. In 1982, the understanding of what constituted a FAPE was challenged in the first landmark case since the original special education law was enacted in 1975. Often referred to as the *Rowley* standard, the Supreme Court decision was interpreted broadly to require that school districts offer an IEP that was ‘appropriate’ and ‘reasonably calculated’ to enable the student to receive some educational benefit such as earning passing grades and grade advancement⁶. The Court wrote, “The intent of the Act was more to open the door of public education to handicapped children on appropriate terms than to guarantee any particular level of education once inside.”⁷ The Supreme Court did not specifically address how FAPE should be determined, nor did it address the wide spectrum of students served under IDEA who would be impacted. Nor did *Rowley* determine any one test for determining educational benefit. Instead, the *Rowley* decision was interpreted by some lower courts to assert that an IEP only needed to provide some benefit⁸ meaning a *de minimis*⁹ standard, or just more than a trivial education. A child would receive FAPE if his or her IEP was “reasonably calculated” to enable the child to achieve educational benefits.

In 2017, the second landmark case, entitled *Endrew F. v. Douglas County School District RE-1*, 137 S. Ct. 988, was decided. In this case, the Supreme Court overturned the Tenth Circuit’s decision and clarified the FAPE standard of education for students with disabilities when it wrote, “to meet its substantive obligation under the IDEA, a school must offer an individual education program (IEP) that is reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances” and emphasized that “every child should have the chance to meet challenging objectives.”¹⁰ The Supreme Court rejected the merely more than *de minimis* standard decided by the Tenth Circuit, thus

³ *Sytsema v. Acad. Sch. Dist.* 538 F.3d 1306, 1312, 236, Ed. Law Rep. 94 (10th Cir. 2008); Zirkel, P. 2017.

⁴ 20 U.S.C. sec. 1412(a)(1) (2013); Zirkel, P. 2017

⁵ 20 U.S.C. sec 1414(d)(1)(A) 2013. The IEP is the “cornerstone” of this central pillar and represents the detailed specification of the individual child’s FAPE, which the required team members, including the parents, have agreed upon. *Murray v. Montrose Cty. Sch. Dist. RE-1J*, 51 F.3d 921, 923, n. 3, 99 Ed. Law rep. 126 (10th Cir. 1995); Zirkel, P. 2017.

⁶ *Id.*, at 207

⁷ *Bd. Of Educ. Of Hendrick Hudson Cent. Sch. Dist. V. Rowley*, 458 U.S. 176, 191 (1982)

⁸ 458 U.S. at 202

⁹ 798 F.3d 1329, 1338

¹⁰ 137 S. Ct. at 1000

requiring districts to rethink FAPE and move from schools offering a basic floor of education to being held accountable for a student's substantive progress.¹¹ Specifically, regardless of where a child sat on the continuum of disability, there would be clear criteria that local school districts should consider when designing, implementing, and monitoring an IEP to ensure that every student with a disability receives educational benefit from special education.

Endrew is an important ruling and indicates a significant need for clarification of what is expected of an IEP. States have a role in creating clarity, not to dictate, but to provide best and evidence-based practices.

– District Management Group (DMG)

The Supreme Court described the features for the development and implementation of the IEP which included the following requirements:

- meets an obligation to address the child's potential for growth;
- is reasonably calculated to enable the child to make progress in light of individual circumstances;
- is aligned to challenging objectives;
- uses a variety of data sources to determine the amount of progress; and
- uses no single test to determine a FAPE.¹²

A strict compliance view and interpretation of IDEA is no longer enough. With a shift to a heightened expectation, states are responsible for building the capacity of district and school teachers and leaders to understand the implications of the *Endrew* decision and to help to ensure every student with a disability receiving special education has an opportunity to benefit from college and career ready expectations.

¹¹ Questions and Answers (Q&A) on U.S. Supreme Court Case Decision, *Endrew F. v. Douglas County School District Re-1*, United States Department of Education <https://sites.ed.gov/idea/files/qa-endrewcase-12-07-2017.pdf>

¹² *Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988

A Systems Approach: What can state leaders do?

The *Endrew* decision lays out and reinforces several important points:

- It rejected the “*de minimis*” or “trivial” educational benefit standard as interpreted by some courts under *Rowley*.
- It did not replace the *Rowley* decision; but rather, clarified its FAPE standard and emphasized “progress”.
- It provided guidance to IEP team members in developing IEPs that meet the higher *Endrew* standard:
 - Parents should have meaningful involvement in IEP meetings and their concerns be considered in their child’s goals.
 - IEP goals should be challenging, appropriately ambitious, and measurable.
 - IEPs should consider present levels of performance, levels of achievement, disability, and potential for growth.
 - IEP teams should measure progress on annual goals and maintain data to indicate that progress has been made.
 - When progress is not being made, the IEP team should reconvene to make needed instructional changes.

– Dr. David Bateman, Shippensburg University

High-Quality IEPs: OSEP Resources for Putting the *Endrew F.* Findings into Practice
2019 Council for Exceptional Children Annual Convention

The *Endrew* decision presents an important opportunity for state leaders including chiefs, deputies, school improvement leads, educator effectiveness leads, and others to work in coordination with directors of special education to improve outcomes for students with disabilities. While the development of the IEP is done at the school level, there are steps states can take to improve upon their support to school and district leaders that would help drive towards the standard set forth in *Endrew*. Some proposed actions that state leaders may want to consider include the following: communicate high expectations for students with disabilities; align internal structures and establish cross-functional teams; develop guidance with clear terminology and examples of quality; braid and blend funds; transform educator preparation, licensure, and support systems; and encourage the use of a multi-tier system of supports (MTSS).

I. Communicate high expectations for students with disabilities

From the top down, chiefs should communicate the message of high expectations for all students and establish a standard of equity for students, including students with disabilities, through actions and words. The culture

of low expectations for students with disabilities must end. Perceived low expectations for students with disabilities often drive the design of inferior educational services. Students with disabilities should be considered first and foremost general education students. Every student with a disability must have access to, participate in, and make progress in the general education curriculum. These students should receive high-quality core instruction enhanced by services and supports delivered through a well-written IEP. Special education should be viewed as a supplemental service to provide students with the knowledge and skills necessary to have the opportunity to be as successful as their general education peers. This message should be communicated externally to all stakeholders including districts, schools, educators, boards of education, and parents.

PROMISING PRACTICE

Wyoming utilizes a standardized IEP with accompanying guidance that was purposefully developed to ensure students receive high quality education. The state also revamped its monitoring system to better align to the Results Driven Accountably under the IDEA by using data drilldowns. Each school district is placed in a tiered cohort according to the results of the data and the Wyoming Department of Education in turn provides differentiated support, technical assistance, and monitoring.

PROMISING PRACTICE

The Mississippi Department of Education raised the bar for students with disabilities by discontinuing special education diplomas. The state is working with districts to move all students to a general education diploma by aligning the IEP to general education expectations.

II. Align internal structures and establish cross-functional teams

Chiefs can demonstrate their commitment to the *Endrew* standard by aligning internal structures across the agency. Aligning teams responsible for implementation of ESSA and IDEA would provide an opportunity for better coordination within the state agency to give support to local school districts and model the expectation of coordinated support for all students. For example, aligned federal programs and special education divisions could create an integrated monitoring and technical assistance process which could support districts and schools more effectively and efficiently. Aligning teacher-effectiveness models to include and incorporate the needs of special education teachers and general education teachers improves collaborative instruction. Finally, aligning the work of the school improvement team with the work of the special education division to better serve the needs of students with disabilities, since students with disabilities are often a subgroup that causes schools to be identified for improvement. Such an aligned approach fosters necessary collaboration between state personnel and could lead to better coordination of services for all students at the district level.

States could consider establishing cross-functional teams to review policies including special education policies, guidance, and professional development materials to

incorporate the intent of *Endrew* and to articulate the features described in the decision. For example, these teams could include representatives from special education, teaching and learning, school improvement, and federal programs. By bringing these representatives together, the state would be able to view supports to districts holistically and model a coordinated approach to educating all students. Coordinating services

across state systems could include agencies such as Vocational Rehabilitation, Department of Human Services, Departments of Children's Services, and Medicaid to better support the needs of families with students with disabilities.

PROMISING PRACTICE

The Kansas Department of Education aligned its federal programs and special education divisions under one leader which resulted in a holistic approach of accountability and local support.

IDEA and Targeted and Comprehensive Supports under ESSA. CCSSO's report [State Systems of Identification and Support under ESSA: A Focus on Designing and Revising Systems of School Identification](#) provides a comprehensive overview of requirements of states to identify and support schools under ESSA.¹³

PROMISING PRACTICE

Wisconsin specifically referenced their SSIP in their ESSA plan to ensure alignment across these two different plans. The state also supports districts in aligning their school and district improvement efforts.

¹³ *State Systems of Identification and Support under ESSA: A Focus on Designing and Revising Systems of School Identification*. <https://ccss.org/resource-library/state-systems-identification-and-support-under-essa-focus-designing-and-revising>

III. Develop guidance with clear terminology and examples of quality

Chiefs and their leadership teams have an opportunity to support schools and districts by developing comprehensive guidance with clear terminology, definitions, and examples of high-quality, standards-based IEPs aligned to *Endrew*. Such guidance would help a school develop an IEP that addresses the child's potential for growth from a strength-based perspective; is reasonably calculated to enable the child to make progress in light of the child's circumstances that is fact driven and ambitious; is aligned to challenging standards with specially-designed instruction and related services that can demonstrate substantive progress; and uses a variety of data sources to determine the amount of progress and ensure that every student with a disability receives the FAPE they are entitled to under IDEA. A high quality IEP identifies and articulates both services and supports within the general education classroom and specially designed instruction delivered outside of core curricula. But even the best IEP does not guarantee quality services unless the responsibility is shared across and between general and special educators.

States should encourage strength- and standards-based IEPs that allow parents to understand where students are in their learning and set goals that help students make meaningful progress toward grade-level standards.

– National Center for Learning Disabilities (NCLD)

Although an emphasis should always be on general education teachers improving and delivering quality core instruction, the delivery of Specially-Designed Instruction (SDI) is generally the responsibility of special education teachers. IDEA regulations define "specially-designed instruction" as "adapting, as appropriate to the needs of an eligible child under this part, the content, methodology or delivery of instruction to (i) address the unique needs of the child that result from the child's disability; and (ii) ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children" (34 CFR Sec. 300.39[b](3). Specially-Designed Instruction (SDI) directly addresses the goals in the student's IEP, which are designed to enable the student to achieve grade-level content standards or close the learning gap.

To make resources available to key stakeholders, a state may consider providing an integrated web-based system supported by

PROMISING PRACTICE

The Pennsylvania Training and Technical Assistance Network provides professional development and clear guidance devoted to the features of Endrew F, including a deep dive into what FAPE means, progress in light of the child's circumstance, and other components of a high quality IEP. A state level annotated sample IEP is a helpful resource provided to educators.

comprehensive training, coaching, and guidance. A comprehensive system helps educators understand standards-aligned IEPs, high quality programs and services, and the tools used to determine a FAPE. A high-quality tool can also provide professional learning both to educators and to parents. State personnel would be able to provide comprehensive guidance designed

to address local needs. A state may choose to provide computerized systems for IEP development, however, it is important to supplement any automated system with training and support to teachers to assure that the individual needs of each student are met within the computer assisted framework. It is essential that states provide support on the tool itself, but also support educators in the process of

PROMISING PRACTICE

In collaboration with advisory groups and stakeholders, Kentucky developed a standard template for IEPs accompanied by guidance documents for various disabilities based on need from the field.

writing a high quality IEP and delivering on the goals and objectives that it contains. Web-based systems to states must be implemented and monitored carefully so to ensure IEPs are personalized, individualized, frequently updated, and tailored to measure a student's improvement on goals.

PROMISING PRACTICE

The West Virginia Department of Education provides real-time comprehensive training and technical assistance using a unified web-based platform. The system offers training on developing appropriate IEPs and has proven useful as the state shifted its regional approach for providing support and monitoring.

IV. Braid and blend funds

Another way chiefs could contemplate delivering on the promise of the IDEA and ESSA would be through braiding and blending of funds.

Encouraging districts to utilize funds, within the requirements of program accountability, for intervening in very low-performing schools (comprehensive support and improvement) and in schools with very low-performing subgroups (targeted support and improvement) encourages coordination of services for all students who struggle to attain proficiency in academic domains.

Coordinated Early Intervening Services (CEIS) regulations provide for use of IDEA funds for services to students not yet identified as having a disability but who need additional academic and/or behavioral supports. IDEA (20 U.S.C. §1413(f)(2)) and its regulations (34 CFR §300.226(b)) identify the activities that may be included as CEIS: (1) professional development for teachers and other school staff to enable such personnel to deliver scientifically-based academic and behavioral interventions, including scientifically-based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and (2) providing educational and behavioral evaluations, services, and supports, including scientifically-based literacy instruction. Section 613(f)(5) of IDEA also states that CEIS funds may be used to carry out services aligned with activities funded by and carried out under the Elementary and Secondary Education Act of 1965, as amended (ESEA), if IDEA funds are used to supplement, and not supplant, funds made available under the ESEA for those activities. Thus, if IDEA funds do not supplant ESEA funds, they may be used to supplement school improvement activities conducted under other programs, such as Titles I or III, that are being implemented in an LEA. Under 34 CFR §300.646(b)(2), if a State identifies significant disproportionality based on race or ethnicity in an LEA with respect to the identification of children as children with disabilities, the identification of children in specific disability categories, the placement of children with disabilities in particular educational settings, or the taking of disciplinary actions, the LEA must use the maximum amount (15 percent) of funds allowable for comprehensive CEIS for children in the LEA, particularly, but not exclusively, for children in those groups that were "significantly overidentified."

Strategically focusing resources on students served under IDEA could more equitably address persistent funding gaps and encourage use of evidenced-based practices for all groups of students. Moreover, coordinated resources can better align initiatives laid out in states' ESSA plans. For example, if districts develop early childhood classrooms for all students, they could utilize state and local dollars supported by federal Title I and IDEA resources. Or if they have a third-grade reading goal, multiple funds could be utilized to support an evidence-based instructional and intervention model across all classrooms and all students.

CCSSO created and released a spending guide entitled [Developing Effective Guidance: A Handbook for State Educational Agencies](#)

to assist states in blending funding at the state level and to support districts on use of allowable funds. The Handbook provides guidance on use of funds under all state-administered ED programs including programs under ESSA, IDEA, and the Carl D. Perkins Career and Technical Education Act.¹⁴

PROMISING PRACTICE

New Jersey braided certain funds to provide comprehensive support at the local level. Using multiple funding sources in a coordinated manner to support specific educational initiatives has helped to ensure consistency and eliminate duplication of services across programs.

PROMISING PRACTICE

Tennessee created the [Coordinated Spending Guide: Braiding and Blending Funds](#) which has been shared widely with district leaders. Washington created a similar guide entitled [Unlocking Federal and State Program Funds to Support Student Success](#). The focus of these guides is to promote comprehensive financial strategies to support activities that drive performance and improve student outcomes.

V. Transform educator preparation, licensure, and support systems

Chiefs can strengthen their processes for teacher and leader preparation and professional development to ensure that adults responsible for the development and delivery of IEPs in schools are successfully prepared and supported to tailor instruction and services to the needs of each child. Special education teachers must be prepared and supported to create, evaluate, and fully implement a high-quality IEP. It is imperative that both special education and general education teachers are fully prepared and supported to teach, monitor, and support students with disabilities by implementing evidence-based instruction and practices with fidelity.

"States have an opportunity to strengthen training for principals related to special education and the needs of students with disabilities. Principals serve as the leaders of schools but are often not trained how to observe special education teachers, how to lead an IEP team or evaluation meeting, or how to address behavioral issues such as the one presented in the Endrew case."

- Dr. David Bateman, Shippensburg University

14 Developing Effective Guidance: A Handbook for State Educational Agencies, <https://ccss.org/sites/default/files/2017-10/CCSSODevelopingEffectiveGuidanceHandbook.pdf>

Only a handful of universities nationally provide training for local special education administrators. States can play a key role in strengthening training, not only of teachers and school leaders, but also of district administrators of special education.

– Council of Administrators of Special Education (CASE)

School principals play a significant role in establishing inclusive buildings and classrooms. Principals most often participate as the local education agency representative on IEP teams. Building-level principals are frequently the point person for questions and concerns from parents of students with disabilities. They are responsible for supporting teachers across general and special education in their development and implementation.¹⁵ These leaders must have support and training to lead IEP meetings, observe special education teachers, and be prepared to intervene with student behavioral issues related to disability. Local administrators of special education are in high demand and must be developed and supported by the state to improve services and outcomes for students with disabilities through professional development and resources so that they in turn can provide leadership at the district level for building level principals, teachers, and support staff.

As students with disabilities are increasingly included in general education classrooms, both general education and special education teachers must be able to demonstrate evidence-based and differentiated core instruction. To improve general education teachers' ability to serve students with disabilities, pre-service teachers require sufficient coursework and training and practicing educators need ongoing coaching. All teachers, leaders, and school support staff must be prepared to develop, interpret, and implement high-quality IEPs thereby ensuring that students with disabilities receive appropriate services and supports.

Some states have required teacher preparation programs to focus on evidence-based practices and general education teachers must demonstrate that knowledge to include students with disabilities. We cannot ensure a quality IEP without simultaneously looking at the quality of the teachers and leaders responsible for implementation. Focusing on school leaders and ensuring that teachers are prepared to meet the needs of students with disabilities is critical to moving the needle on student outcomes.

– CEDAR Center (Collaboration for Effective Educator Development, Accountability, and Reform)

15 A Principal's Guide to Special Education, David F. Bateman and C. Fred Bateman

A CCSSO publication, [*Promises to Keep: Transforming Educator Preparation to Better Serve A Diverse Range of Learners*](#)¹⁶ published in partnership with the Collaboration for Effective Educator Development, Accountability, and Reform Center (CEEDAR Center), provides states with recommendations for transforming educator preparation, licensure, and support systems with an eye toward ensuring that educators deliver on the promise of FAPE and IEPs. Recommendations include the following:

- 1) Beginning in the preparation stage, define and integrate across the educator career continuum the knowledge and skills all educators need to implement differentiated, high-quality core content instruction to meet the needs of all learners, monitor student progress, and identify and provide increasingly intensive supports.
- 2) Provide multiple opportunities for deliberate practice and feedback to educators, including access to a range of meaningful practical experiences, as they learn and implement differentiated core instruction, monitor student progress, and apply evidence-based practices to meet the needs of all students within a tiered system of supports.
- 3) Ensure that the outcomes of all students, including students with disabilities, are an integral part of preparation program approval and educator evaluation systems.
- 4) Create an infrastructure that prepares candidates for enabling and promoting shared ownership, collaboration, and teamwork among all educators for all students, including students with disabilities.
- 5) Hold educator preparation programs accountable and provide feedback on how to improve programs to ensure candidates are prepared with the knowledge, skills, and practice opportunities necessary to teach and lead diverse learners within a tiered system of supports.

Training all teachers on evidence-based practices would strengthen school districts' improvement efforts and, in turn, guarantee FAPE is provided to students with disabilities. By creating stronger pre-service programs and better-prepared novice teachers, local districts can focus their professional development and coaching on supporting, revising, and improving educator practice. This systemic approach could provide the resources needed to effectively meet the unique needs of students with disabilities and support the implementation of their IEPs.

¹⁶ *Promises to Keep: Transforming Educator Preparation to Better Serve A Diverse Range of Learners*, Council of Chief State School Officers, 2015.

VI. Provide comprehensive data systems for use by IEP teams and parents

States should provide guidance on how to access and use valid and reliable data to identify students' needs and present levels of performance, establish appropriately ambitious IEP goals, and evaluate progress towards those goals. Meaningful IEP goals and expectations assist teachers in designing and delivering individualized services and supports that are necessary for students with disabilities to succeed.

– National Center on Intensive Intervention at American Institutes for Research (2018)¹⁷

Another approach that chiefs can consider to help schools accelerate outcomes and use data would be to provide statewide information systems and dynamic data dashboards to districts and schools. Data dashboards are useful tools to monitor progress and outcomes for populations of students, including students with disabilities, while keeping student privacy and appropriate viewing rights in mind. Assessment data obtained from benchmark assessments, progress monitoring tools, and universal screeners viewed by teachers at the student level are particularly useful in demonstrating individual progress over time.

The Supreme Court asserted that data from a variety of sources must be used to measure progress and that 'no one test' would be used to determine a FAPE¹⁷. Thus, having dynamic systems that are robust and transparent would equip schools and IEP teams with the fact-driven information needed to measure progress and assure FAPE. A more transparent system would foster authentic family engagement and collaborative IEP team meetings because the focus would be on examining accurate data. Finally, the data would be used by SEAs to conduct district and state special education determinations and results-driven accountability required by IDEA.

PROMISING PRACTICE

Wisconsin implemented a College and Career Ready Individual Education Program (CCR-IEP) along with supporting guidance that includes the aspects of Endrew which focus on establishing ambitious goals, rigorous standards, and strategies for addressing barriers to FAPE.

PROMISING PRACTICE

Florida successfully utilized data literacy strategies that could generalize to improving academic and behavioral outcomes to build local capacity in order to increase graduation rates for students with disabilities. Florida Spotlight, National Center for Systemic Improvement (NCSI) at WestEd <https://ncsi-library.wested.org/resources/235>

¹⁷ Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 137 S. Ct. 988, Rowley, Id. At 200, 202,203. Board of Education of the Hendrick Hudson Central School District v. Rowley of 1982.

VII. Encourage the use of a multi-tier system of supports

State leaders could also work to help school districts accelerate outcomes for students with disabilities by providing guidance on implementing a multi-tier system of supports (MTSS) with a focus on the “whole child” by addressing academic growth and achievement, as well as other areas including behavioral, social, and emotional needs which impact absenteeism. A multi-tier system of supports is a proactive approach that has several common key elements: universal screening, systems of increasingly intensive supports and interventions, progress monitoring, team-based problem solving, and data-decision making. It uses evidence-based practices and interventions and is generally a school or district-wide approach that emphasizes family engagement. Done well, MTSS serves as a comprehensive system of supports that provides for swift responses to student academic and behavioral needs by utilizing real-time data to monitor growth and make informed decisions for all students, including those with the most significant cognitive disabilities. Implementing a comprehensive MTSS meets both the requirements of ESSA and IDEA by aligning internal and external resources to meet the needs of the wide spectrum of students.

Students with the most significant needs under an MTSS framework will benefit from intensive intervention through data-based individualization (DBI), a research-based process for individualizing and intensifying

PROMISING PRACTICE

Utah incorporated strategies based on resiliency, mental and physical health, positive intervention and supports, and restorative practices into their MTSS to address the mental well-being of its students.

interventions through the systematic use of assessment data, validated interventions, and research-based adaptation strategies.¹⁸ This is the process for improving outcomes for students with disabilities and struggling students which can help improve the goal setting for IEPs,

referral decisions, and IEP development and thus should be a critical part of the MTSS framework and infrastructure development. Shared ownership of students with disabilities between general and special education teachers is a positive effect of MTSS. Implementation of MTSS with fidelity will reduce inappropriate referrals to special education and help students with disabilities make the academic growth required by *Endrew*.

¹⁸ Intensive Intervention, National Center for Intensive Intervention, <https://intensiveintervention.org/intensive-intervention>

At the state level, leaders can provide clear guidance for district implementation of MTSS by standardizing approaches to strategies, assessment and intervention tools, and guidance for evidence-based practices. To implement well, chiefs can promote MTSS as the overarching framework of school improvement and provide resources from the SEA to include professional development, support to utilize blended funds, comprehensive data systems, and guidance documents. State ESSA plans contain elements of MTSS that must be implemented with fidelity to assure that all students, including students with disabilities, get the supports they need to be successful.

PROMISING PRACTICE

District adoption of the Kansas Multi-Tier System of Supports and Alignment includes a proactive approach to improving academic performance, positive behavioral supports and interventions that promote student health and safety, improved social and emotional competency, and decreased removals from the classroom.

PROMISING PRACTICE

Several states have demonstrated how they have harnessed data from their Multi-Tier System of Supports to improve graduation rates. For example, Pennsylvania utilizes an early warning system; North Carolina developed a data tool; and Virginia is improving graduation rates by aligning data collection and evaluation plans across state initiatives. National Center for Systemic Improvement at WestEd (NCSI) <https://ncsi-library.wested.org/resources/231>

Conclusion

"When all is said and done, a student offered an educational program providing 'merely more than de minimis' progress from year to year can hardly be said to have been offered an education at all. For children with disabilities, receiving instruction that aims so low would be tantamount to 'sitting idly . . . awaiting the time when they were old enough to "drop out."¹⁹" The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."²⁰

The *Endrew* Supreme Court decision presents a critically important opportunity for chiefs and their leadership teams to rethink special education and raise the standard for what constitutes a meaningful education for students with disabilities. Examining beliefs, aligning systems, and implementing high caliber practices give states the potential to get closer to fulfilling the promise of IDEA. Embracing an expansive view of a child's potential and supporting that view with clear guidance and support will accelerate outcomes for students with disabilities. Shared ownership of the responsibility of educating students with disabilities between administrators and general and special education professionals is imperative. Policies and practices must align with the unanimous Supreme Court decision; requiring that states, districts, and schools assure that students with disabilities receive the educational benefit to which they are entitled. IDEA should not be implemented as a parallel system; it should instead be nested within a larger educational system that holds high expectations and provides appropriate services and supports for each and every child.

19 Rowley, 458 U.S., at 179

20 *Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988

Glossary of Terms

- **Asset-based language** – A focus on strengths rather than weaknesses (i.e. what is present that can be built upon?)
- **Blended Funding** – Financial assistance from individual funding streams to states, local governments, and other pass through entities is merged by all stakeholders into one award and each individual award loses its award-specific identity
- *Board of Education of the Hendrick Hudson School District v. Rowley*, 458 U.S. 176 (1982)
- **Braided Funding** – Financial assistance from individual funding streams to states, local governments, and other pass-through entities is coordinated by all stakeholders so each individual award maintains its award-specific identify
- **Child with a Disability** – Indicates a child (i) with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and, (ii) who, by reason thereof, needs special education and related services.
- **de minimis** – just more than trivial; some
- *Endrew, F. v. Douglas County School District RE-1*, 137 S. Ct. 988 (2017)
- **Endrew standard** – The Court held that to meet its substantive obligation under IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances. In clarifying the standard, the Court rejected the "merely more than de minimis" (i.e. more than trivial) standard applied by the Tenth Circuit. In determining the scope of FAPE, the Court reinforced the requirement that "every child should have the chance to meet challenging objectives."
- **Free Appropriate Public Education (FAPE)** – special education and related services that (a) have been provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the State educational agency; (c) include an appropriate preschool, elementary school, or secondary school education in the state involved; and (d) are provided in conformity with the individualized education program. A free appropriate public education is available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

- **Individuals with Disabilities Education Act (IDEA)** – In the U.S. the Individuals with Disabilities Education Act (IDEA) is a special education law that mandates regulation for students with disabilities in order to protect their rights as students and the rights of their parents. Under this act it is required that all students receive a Free and Appropriate Public Education (FAPE), and includes that these students should be educated in the least restrictive environment (LRE). The least restrictive environment clause states that students with disabilities should be educated with students without disabilities to the maximum appropriate extent [1]. If a student should require supplementary aids and services necessary (such as an interpreter, resource room or itinerant teacher) to achieve educational goals while being placed in a classroom with students without disabilities, they should be provided as needed [2].
- **Individualized Education Program (IEP)** – a written statement of the educational program designed to meet a child's individual needs. Every child who receives special education services must have an IEP.
- **Least Restrictive Environment (LRE)** – To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- **Multi-Tier System of Supports (MTSS)** – as defined in an OSEP memo to SEAs as "a Multi-Tier System of Supports (MTSS), often referred to as RTI, is a schoolwide approach that addresses the needs of all students..."²¹. It is further defined as "the integration of assessment and intervention within a multi-level prevention system to maximize student achievement and to reduce behavioral problems. With MTSS/RTI, schools use data to identify students at risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, adjust the intensity and nature of those interventions depending on a student's responsiveness, and identify students with learning disabilities or other disabilities (according to state law)."²²

21 OSEP Memo to SEAs (January 21, 2011). Retrieved from <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>

22 The [National Center on Response to Intervention](#) (NCRTI), [Essential Components of RTI- A Closer Look at Response to Intervention](#)

- **Related Services** – In general means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children. Exception: the term does not include a medical device that is surgically implanted, or the replacement of such a device.
- **Rowley Standard** – a two-part test used by courts to decide if a school has provided FAPE as required by IDEA. The first part of the Rowley standard is deciding if the school has complied with the procedures of IDEA. The second part of the Rowley standard decides if the individualized education program (IEP) developed through IDEA's procedures has been calculated to enable the child to receive educational benefits.

References

The Supreme Court of the United States, Endrew F., A Minor by and Through his Parents and Next Friends, Joseph F. Et. Al. v. Douglas County School district RE-1, Certiorari to the United States Court of Appeals for the Tenth Circuit, No. 15-827, Argued January 11, 2017-Decided March 22, 2017.

The Supreme Court's Decision in *Endrew F. v. Douglas County School District RE-1: A Meaningful Raising of the Bar?*" Originally published in *West's Education Law Reporter*, v. 341, pp. 545-554 (2017).

Endnotes

¹ How ESSA and IDEA Can Support College and Career Readiness for Students with Disabilities. https://ccrscenter.org/sites/default/files/ESSA-IDEA_CollegeCareerReadiness.pdf

² How much time do students with disabilities spend in “regular” classrooms? Disabilities, Opportunities, Internetworking, and Technology. <https://www.washington.edu/doit/how-much-time-do-students-disabilities-spend-regular-classrooms>

³ Sytsema v. Acad. Sch. Dist. 538 F.3d 1306, 1312, 236, Ed. Law Rep. 94 (10th Cir. 2008); Zirkel, P. 2017.

⁴ 20 U.S.C. sec. 1412(a)(1) (2013); Zirkel, P. 2017.

⁵ 20 U.S.C. sec 1414(d)(1)(A) 2013. The IEP is the “cornerstone” of this central pillar and represents the detailed specification of the individual child’s FAPE, which the required team members, including the parents, have agreed upon. Murray v. Montrose Cty. Sch. Dist. RE-1J, 51 F.3d 921, 923, n. 3, 99 Ed. Law rep. 126 (10th Cir. 1995); Zirkel, P. 2017.

⁶ *Id.*, at 207

⁷ Bd. Of Educ. Of Hendrick Hudson Cent. Sch. Dist. V. Rowley, 458 U.S. 176, 191 (1982)

⁸ 458 U.S. at 202

⁹ 798 F.3d 1329, 1338

¹⁰ 137 S. Ct. at 1000

¹¹ Questions and Answers (Q&A) on U.S. Supreme Court Case Decision, Endrew F. v. Douglas County School District Re-1, United States Department of Education <https://sites.ed.gov/idea/files/qa-endrewcase-12-07-2017.pdf>

¹² Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 137 S. Ct. 988

¹³ State Systems of Identification and Support under ESSA: A Focus on Designing and Revising Systems of School Identification. <https://ccss.o.org/resource-library/state-systems-identification-and-support-under-essa-focus-designing-and-revising>

¹⁴ Coordinated Early Intervening Services (CEIS) Under Part B of the Individuals with Disabilities Education Act (IDEA), Office of Special Education Programs (OSEP), <https://www2.ed.gov/policy/speced/guid/idea/ceis-guidance.doc>

¹⁵ Developing Effective Guidance: A Handbook for State Educational Agencies, <https://ccss.o.org/sites/default/files/2017-10/CCSSODevelopingEffectiveGuidanceHandbook.pdf>

¹⁶ A Principal’s Guide to Special Education, David F. Bateman and C. Fred Bateman

¹⁷ Promises to Keep: Transforming Educator Preparation to Better Serve A Diverse Range of Learners, Council of Chief State School Officers, 2015.

¹⁸ Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 137 S. Ct. 988, Rowley, Id. At 200, 202,203. Board of Education of the Hendrick Hudson Central School District v. Rowley of 1982.

¹⁹ Intensive Intervention, National Center for Intensive Intervention, <https://intensiveintervention.org/intensive-intervention>

²⁰ Rowley, 458 U.S., at 179

²¹ Endrew F. v. Douglas Cty. Sch. Dist. RE-1, 137 S. Ct. 988

²² OSEP Memo to SEAs (January 21, 2011). Retrieved from <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>

²³ Essential Components of RTI- A Closer Look at Response to Intervention, [National Center on Response to Intervention](https://www.ncrti.org/) (NCRTI),



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